

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6478

DAVID LUIS RIOS,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director of the Department
of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Gerald Bruce Lee, District
Judge. (CA-01-1291-AM)

Submitted: May 29, 2003

Decided: June 5, 2003

Before WILKINSON, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Luis Rios, Appellant Pro Se. Steven Andrew Witmer, OFFICE OF
THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

David Luis Rios, a Virginia prisoner, seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken to this court from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F. 3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Rios has not made the requisite showing. See Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED